

Michael Kevin DuPont U44692
P.O. Box 100 ^{FILED}
S. Waltham, MA. 02451-0100 ^{IN CLERKS OFFICE}
JULY 2005 2:36

February 1, 2005

C.J.A. Counsel Analyst Judith Litwin cc. Attorney John Amabile
ONE COURTHOUSE WAY (Suite 2300) 380 PLEASANT STREET
BOSTON, MA. 02110 BROCKTON, MA. 02301
cc. ERNEST DUPONT V. NOLAN, 04-11431-GAO
BOARD of BAR OVERSEERS cc. CROSBY DAVID NATHANSON
99 High STREET 44 Bromfield STREET
BOSTON, MA. 02110 BOSTON, MA. 02108

RE² FORMAL COMPLAINT FOR REMOVAL OF SO-CALLED
ATTORNEY JOHN AMABILE FROM FEDERAL
C.J.A. ASSIGNMENT LIST, CACS MURDER LIST
AND FOR BOARD OF BAR OVERSEERS INVESTIGATION,
WITH REASSIGNMENT OF COMPETENT COUNSEL

Dear CJA Counsel, BBC & CACS:

As you know
over 50% of the old CJA. assignment list of 1
counsel are not competent to practice law,
especially ATTORNEY John Amabile who
-16f4 - See other side →

1 The worst on CJA List is ATTORNEY Roger Cox who
overbills and sells out ALL of his clients, like George
Gormley, Roger Witten, Bernice Grossberg and
dozens of LAZY ASSIGNED FEDERAL LAWYERS delegated.
(BUT I'll legally remove them ALL from list later this year)

has refused to answer all of my ~~letters~~
has an office practice not to accept
collect calls in assigned client cases and
would not even talk to me until Judge
O'Toole wrote Amabile 1/10/05 letter
followed by 1/12/05 visit and Attorney
Amabile breaking his professional
contract promise to file bail motion
prior to the 1/27/05 hearing I just had
on the 1/12/05 visit the only thing
Amabile knew was that he was in trouble
with Judge O'Toole AND that my first
name was Mike.

AT the 1/27/05 hearing Amabile
called me "KEVIN", but that's as close
as he came to being prepared and
had not filed the bail motion he
promised or done any research so
he relied on my previously filed
handprinted and typed pre
oppositions to government's motions
for scheduled 2/7/05 hearing.

my attached docket entries show
that since his November 2004 assignment
ATTORNEY AMABILE did not ever know
he had to file an appearance under
Do MASS. LOCAL RULE 83.5.2(a).

My ATTACHED motion to be heard
AT February 2, 2005 HEARING VERBALLY
I PLAN TO MAKE A RECORD IN OPEN
COURT CONCERNING THE CO.J.A. OFFICE
Allowing UNFIT LAWYERS STAY ON YOUR
LIST WHEN YOU SHOULD HAVE COMPETENCY
EXAMS FOR LAWYERS TO REMOVE OVER
50% OF OLD LAZY AND INCOMPETENT ONES
FROM CO.J.A. LIST AND OPEN IT UP FOR
NEW COMPETENT, DILIGENT, YOUNG
ATTORNEYS!!!!

I AM unquestionably the best
LEGAL RESEARCHER ON THE PLANET but
when I TELL ATTY. AMABILE NAMES OF
RECENT DECISIONS AMABILE GETS A
BLANK [DEER CAUGHT IN HEADLIGHTS IN ROAD]
LOOK ON HIS FACE AND HAS ABSOLUTELY
NO IDEA WHAT I'M TALKING ABOUT
IF YOU HAD ASSIGNED AT BOSTON
CABDRIVES TO ME THE CABDRIVES
WOULD HAVE A BETTER UNDERSTANDING
OF THE MATTER THAN JOHN AMABILE HAS !!!

John AMABILE does NOT READ
UPDATED ADVANCE SHEET DECISIONAL LAW
DOES NOT KNOW OLDER SUPREME COURT
LAW AND IS NOT FAMILIAR WITH
FEDERAL APPEALS COURT DECISIONS AND
AEDPA 28 USC 2254 HABEAS CORPUS
PRACTICE AND PROCEDURES.

In FACT John Amabile did not know STATE LAW over A decade ago when he did my former (now deceased) Friend COFF DAVIS' MURDER TRIAL which I helped DRAFT INEFFECTIVE ASSISTANCE grounds for CPCs COUNSEL LAST YEAR, AND Amabile did not know STATE DECISIONAL LAW RECENTLY in JACK BELIARD'S CASE which I filed A TRIAL MOTION (ATTACHED) ATTACK ON JOHN AMABILES INEFFECTIVE ASSISTANCE A couple of weeks ago, CPCs should remove John Amabile from their MURDER LIST because ALL Amabile knows how to do is Legally KILL his clients.

The CJA OFFICE SHOULD REMOVE AMABILE FROM FEDERAL LIST AND REPLACE NEW COUNSEL IN ALL OF HIS PENDING CASES!!

The BOARD OF BAR OVERSEAS IS REQUESTED TO INVESTIGATE John Amabile FOR OVER A DECADE SINCE ALL OF HIS CLIENTS TALK ABOUT AMABILE'S LACK OF COMMUNICATION, FAILURE TO KEEP THEM UPDATED ON STATES' OF CASES, LACK OF DILIGENCE AND OBVIOUS LACK OF COMPETENCE WHICH VIOLATES SJC RULE 3E09 ATTY. ETHICS SUB-RULES 1.1, 1.3 AND 1.4, SIMILAR TO HIS DOING NOTHING IN MY CASE KNOWING IT SHOULD HAVE BEEN EXPEDITED DUE TO MY RELEASE 2/26/05 SENTENCE EXPIRATION. I REQUEST NEW C.J.A. COUNSEL BE ASSIGNED.

Exhibit

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY
BOSTON, MASSACHUSETTS 02210

GEORGE A. O'TOOLE, JR.
DISTRICT JUDGE

January 10, 2005

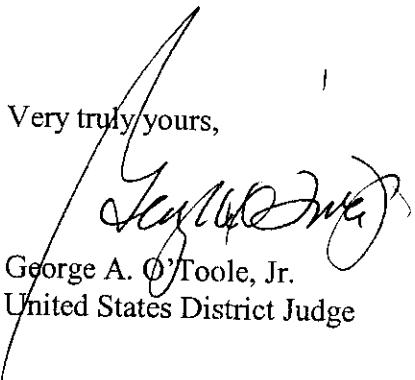
John A. Amabile, Esq.
Amabile & Burkly, PC
380 Pleasant Street
Brockton, MA 02401

RE: DuPont v. Nolan, CV 04-11431-GAO

Dear Mr. Amabile:

Enclosed is a photocopy of a letter I have received from Mr. DuPont. I trust you will be in touch with him.

Very truly yours,


George A. O'Toole, Jr.
United States District Judge

Enc.

cc: Michael Kevin DuPont, # 44692
P.O. Box 100
South Walpole, MA 02071-0100

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTSMICHAEL KEVIN DUPONT,
PETITIONER

No. 04-11431-GAO

v.

DAVID NOLAN,
Respondent
~~XXXXXXXXXXXXXX~~EMERGENCY MOTION FOR COURT TO COMPEL
C.J.A. ATTORNEY JOHN AMABILE TO
COMMUNICATE WITH PETITIONER OR
FOR REASSIGNMENT OF CJA COUNSEL

Now comes the Petitioner, averring under PAIN AND PENALTY of perjury that he shall be released from prison in MARCH 2005, and moves Judge O'Toole to compel Attorney John Amabile to communicate with the Petitioner or for assignment of a new C.J.A. Lawyer who will press for a bail release hearing. Accept collect calls and answer letters.

In support hereof, Petitioner also avers that Amabile has not answered Petitioner's 12/9/04 letter or a second letter. His office SECRETARY refuses to accept collect telephone calls in Boston and Brockton, and Amabile's Boston office says he does not work in Boston office and is always in Brockton.

1/16/05 copy served or submitted by
ASS'CY GEN. SUSAN REEDON
CJA COORDINATOR
CC: ATTY JOHN AMABILE

Mark D. Farn
prose

Exhibit

CASREF

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:04-cv-11431-GAO
Internal Use Only

DuPont v. Nolan

Assigned to: Judge George A. O'Toole Jr.

Referred to: Magistrate Judge Marianne B. Bowler

Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 06/17/2004

Jury Demand: None

Nature of Suit: 530 Habeas Corpus
(General)

Jurisdiction: Federal Question

Petitioner**Michael Kevin DuPont**represented by **Michael Kevin DuPont**
MCI Cedar Junction
P.O. Box 100
South Walpole, MA 02071
PRO SE

V.

Respondent**David Nolan, Superintendent**represented by **Susanne G. Reardon**
Attorney General's Office
One Ashburton Place
18th Floor
Boston, MA 02108
617-727-2200
Fax: 617-727-5755
Email:
susanne.reardon@ago.state.ma.us
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/17/2004	•1	MOTION for Leave to Proceed in forma pauperis by Michael Kevin DuPont.(Jenness, Susan) (Entered: 06/23/2004)
06/17/2004	•2	PETITION for writ of habeas corpus pursuant to 28:2254 , filed by Michael Kevin DuPont.(Jenness, Susan) (Entered: 06/23/2004)

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTSMICHAEL KEVIN DuPONT,
PETITIONER *

V. *

DAVID NOLAN,
RESPONDENT *

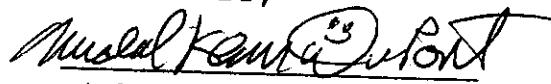
No. 04-11431-GAO

BLAKELY V. WASHINGTON, 124 S.Ct 2531 (2004) LEGAL GROUND MOTION
FOR IMMEDIATE BAIL AND NOTICE OF COMPLAINT AGAINST JUDGE
O'TOOLE FOR UNTIMELY RULINGS AND COVERING UP FOR PROSECUTORS

Now comes the unlawfully imprisoned Petitioner, citing Judge O'Toole's principle of "enough is enough", US V. NORTH, 98-10176-GAO (3/10/00 transcript page 138), and, where Petitioner's sentence expires in three months after having served eight years excessive time over wrap up due to pending APPRENDI-type violation of the rules of BLAKELY V. WASHINGTON, 124 S.Ct. 2531 (2004), especially the state Court's decision being contrary to the Apprendi-Blakely impact analysis, UNITED STATES V. MUFFLEMAN, 327 F.Supp2d 79, 88-89 (D.Mass 2004), Petitioner, for a third time, moves for immediate bail release under the Blakely bail decision in UNITED STATES V. CASTRO, 382 F3d 927, 929 (9th Cir 2004) (see former Docket entries #8, #19, #21), and, in relation thereto attaches an advance copy of his 12/6/04 letter complaint to the First Circuit Administrator which concerns Judge O'Toole's pattern of untimely rulings in many other cases, and in particular Judge O'Toole's specifically covering-up for unethical Ass. Atty. General Susan Reardon in this case and his 18 USC § 2 aiding and abetting her fraudulent obstruction of justice conspiracy with state prosecutors Judge Quinlan is also covering up for (see attached exhibit state DE#597, #598) by Judge O'Toole failing to refer her to the Board of Bar Overseers and delaying rulings in a joint venture conspiracy to moot the habeas excessive sentence grounds (DE#20, #23, #25, #26, #27, #28, #29, #30, #31-36). IF not immediately released on bail, petitioner shall lawfully impose sanctions using first amendment rights to make Judge O'Toole work much harder by providing massive pro bono assistance to O'Toole's other litigant victims upon release anyway in March 2005 !

November 25, 2004
Copy served on corrupt and
unethical AAG Susan Reardon
cc. State Court files

SUBMITTED BY,



Michael DuPont Pro Se
PO Box 100
S. Walpole, MA. 02071

*To conceal his
own misconduct
Judge O'Toole accepted
XMS from AAG status
AT 1/27/05
At 1/27/05
XMS keeping
service*

06/17/2004	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Jenness, Susan) (Entered: 06/23/2004)
06/17/2004	● <u>3</u>	MOTION to Assignment of Counsel to Expedite Bail Release and for Necessary Evidentiary Hearing by Michael Kevin DuPont. (Weissman, Linn) Additional attachment(s) added on 6/28/2004 (Jenness, Susan). (Entered: 06/25/2004)
06/23/2004	●	Case undergoing preliminary screening (Jenness, Susan) (Entered: 06/23/2004)
06/24/2004	● <u>4</u>	Judge George A. O'Toole Jr.: SERVICE ORDER entered re: 2254 Petition. Order entered pursuant to R.4 of the Rules governing Section 2254 cases for service on respondents. Answer/responsive pleading due w/in 20 days of rcpt of this order. cc/cl(Weissman, Linn) (Entered: 06/25/2004)
06/24/2004	● <u>5</u>	Judge George A. O'Toole Jr.: ORDER entered granting <u>1</u> Motion for Leave to Proceed in forma pauperis. cc/cl (Weissman, Linn) (Entered: 06/25/2004)
06/24/2004	● <u>6</u>	Judge George A. O'Toole Jr.: ORDER entered denying <u>3</u> petitioner's motions for appointment of counsel and for an evidentiary hearing without prejudice to the re-filing of these motions after the respondent has filed a responsive pleading to the petition. cc/cl (Weissman, Linn) (Entered: 06/25/2004)
06/28/2004	●	Documentation attached to motion No. 3 for appointment of counsel is not scannable however is attached in hard copy to motion. (Jenness, Susan) (Entered: 06/28/2004)
07/02/2004	● <u>7</u>	MOTION for Reconsideration of Counsel Assignment on July 19, 2004 and to Deny Respondent's Time Extensions or to Transfer Case to Judge Lindsay by Michael Kevin DuPont.(Barrette, Mark) (Entered: 07/08/2004)
07/02/2004	● <u>8</u>	EXHIBIT by Michael Kevin DuPont.***Too large to scan*** (Barrette, Mark) Additional attachment(s) added on 7/8/2004 (Barrette, Mark). (Entered: 07/08/2004)
07/02/2004	● <u>9</u>	Verified MOTION for Bail Hearing and to Expedite Bail Release Based Upon Blakely v. Washington, 124 s. Ct. (2004) ***Attachments too large to be Scanned*** by Michael Kevin DuPont.(Barrette, Mark) (Entered: 07/08/2004)
07/06/2004	●	Return receipt received for mail sent to Ms. Cathryn A. Neaves

08/20/2004	<u>15</u>	ANSWER to Complaint <i>habeas corpus petition</i> by David Nolan. (Reardon, Susanne) (Entered: 08/20/2004)
08/20/2004	<u>16</u>	MOTION to Dismiss <i>petition for writ of habeas corpus</i> by David Nolan.(Reardon, Susanne) (Entered: 08/20/2004)
08/20/2004	<u>17</u>	MEMORANDUM in Support re <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> filed by David Nolan. (Reardon, Susanne) (Entered: 08/20/2004)
08/23/2004	<u>18</u>	Supplemental ANSWER to Complaint(Volume 1&2***Too Large to be Scanned***) by David Nolan.(Barrette, Mark) (Entered: 08/24/2004)
08/24/2004	<u>22</u>	Petitioner's Filing of Grievance Appeal # 4420 Concession by Respondent Nolan's 8/3/04 Exhibit Stipulating Full Exhaustion of Apprendi-Based Blakely v. Washington Grounds 3,6,7 and 15 Allowing Partial Summary Judgment Immediate Release from Michael Kevin Dupont. (Barrette, Mark) (Entered: 08/30/2004)
08/25/2004	<u>23</u>	Opposition re <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> filed by Michael Kevin DuPont. (Barrette, Mark) (Entered: 08/31/2004)
08/31/2004	<u>24</u>	Petitioners Decisional Support for Summarily Denying the Motion to Dismiss from Michael Kevin Dupont. (Barrette, Mark) (Entered: 08/31/2004)
09/09/2004	<u>26</u>	MOTION Investigation of State Atty. General's Office Targeting Some Federal Judges For Omission of Collateral Exhaustion Records by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/09/2004	<u>27</u>	NOTICE of Intent To File Dupont v O'Toole Bivens Complaint For Untrained Judge Failing To Compel Respondent to File 01-P-1792 Exhaustion Record and Delay Supporting Judge O'Toole Disqualifying Himself by Michael Kevin DuPont (Barrette, Mark) (Entered: 09/15/2004)
09/09/2004	<u>28</u>	Demand for Expedited Decision on Merits and Assigned Counsel To Facilitate Release or for Judge O'Toole to Disqualify Himself by Michael Kevin DuPont. (Barrette, Mark) (Entered: 09/15/2004)
09/09/2004	<u>30</u>	Verified Demand For Denial of Respondent's Motion to Dismiss and for Exposure of AAG Susan Reardon's Misconduct or for Judge O'Toole to Disqualify Himself by Michael Kevin DuPont to <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> . (Barrette, Mark) (Entered: 09/15/2004)

09/15/2004	•25	MOTION to Strike Respondents Answer, Supplemental Answer and Motion To Dismiss for Bad faith Omission of 01-P-1792 Exhaustion Record and False Answer Denial of Such Knowledge <u>15</u> Answer to Complaint, <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> , <u>18</u> Answer to Complaint by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/15/2004	•29	Third MOTION to Appoint Counsel To Expose the Respondent's Misconduct and Expedite Hearings For Release Within Six Months Remaining To be served on Twenty Year Sentence by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/20/2004	•31	Respondents 01-P-1792 BRIEF Exhibit Opposing Grounds 1,3,4,5,6,7, &15 on the Merits and not contesting State Habeas Corpus Exhaustion Remedy by Michael Kevin DuPont to <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus</i> . (Barrette, Mark) (Entered: 09/23/2004)
09/20/2004	•32	State Exhaustion 01-P-1792 Appendix Volume IV Transcripts by Michael Kevin DuPont. (Barrette, Mark) (Entered: 09/23/2004)
11/19/2004	•	Judge George A. O'Toole Jr.: ORDER entered- Upon review of the file, this action is referred to the Magistrate Judge for appointment of counsel only.(Lyness, Paul) (Entered: 11/19/2004)
11/19/2004	•33	Judge George A. O'Toole Jr.: ORDER entered REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: to appoint CJA Attorney (Attachments: # <u>1</u> Attorney assignment request# <u>2</u> Appointment of Counsel)(Edge, Eugenia) (Entered: 11/22/2004)

		Exhaustion Record and Delay Supporting Judge O'Toole Disqualifying Himself by Michael Kevin DuPont (Barrette, Mark) (Entered: 09/15/2004)
09/15/2004	● 28	Demand for Expedited Decision on Merits and Assigned Counsel To Facilitate Release or for Judge O'Toole to Disqualify Himself by Michael Kevin DuPont. (Barrette, Mark) (Entered: 09/15/2004)
09/15/2004	● 29	Third MOTION to Appoint Counsel To Expose the Respondent's Misconduct and Expedite Hearings For Release Within Six Months Remaining To be served on Twenty Year Sentence by Michael Kevin DuPont.(Barrette, Mark) (Entered: 09/15/2004)
09/15/2004	● 30	Verified Demand For Denial of Respondent's Motion to Dismiss and for Exposure of AAG Susan Reardon's Misconduct or for Judge O'Toole to Disqualify Himself by Michael Kevin DuPont to <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus.</i> (Barrette, Mark) (Entered: 09/15/2004)
09/23/2004	● 31	Respondents 01-P-1792 BRIEF Exhibit Opposing Grounds 1,3,4,5,6,7, &15 on the Merits and not contesting State Habeas Corpus Exhaustion Remedy by Michael Kevin DuPont to <u>16</u> MOTION to Dismiss <i>petition for writ of habeas corpus.</i> (Barrette, Mark) (Entered: 09/23/2004)
09/23/2004	● 32	State Exhaustion 01-P-1792 Appendix Volume IV Transcripts by Michael Kevin DuPont. (Barrette, Mark) (Entered: 09/23/2004)
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11/22/2004	● 33	Judge George A. O'Toole Jr.: ORDER entered REFERRING CASE to Magistrate Judge Marianne B. Bowler Referred for: to appoint CJA Attorney (Attachments: # <u>1</u> Attorney assignment request# <u>2</u> Appointment of Counsel)(Edge, Eugenia) (Entered: 11/22/2004)
01/04/2005	●	Judge George A. O'Toole Jr.: Electronic ORDER entered terminating <u>13</u> Motion for Extension of Time to Answer (Lyness, Paul) Modified on 1/5/2005 to add electronic to text (Edge, Eugenia). (Entered: 01/04/2005)

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

MICHAEL KEVIN DUPONT, X
PETITIONER X

v. X
DAVID NOLAN, X
RESPONDENT X

Exhibit
No. 04-11431-GAO

REQUEST FOR LEAVE TO BE HEARD AT 2/7/05 HEARING
ON NEED FOR ASSIGNMENT OF DILIGENT COMPETENT
C.J.A. COUNSEL AND MOTION FOR BAIL RELEASE
TO 30 DAY CONSECUTIVE SENTENCE ON 2/7/05
FOR PURPOSE OF PREVENTING MENTALNESS OF GROUNDS

Because so-called CJA ATTORNEY John
AMABILE did NOT FILE his APPEARANCE FOR
OVER TWO MONTHS IN VIOLATION of D. MASS
LOCAL RULE 83-5.2(a), broke his word TO
PETITIONER TO FILE BAIL MOTION shortly AFTER
1/12/05 VISIT AND PETITIONER questioning COUNSEL'S
LACK OF KNOWLEDGE OF 28 USC 2254 DECISIONAL
LAW, BASED ON AMABILE'S REPORTATION FOR LACK
OF DILIGENCE FOR OVER A DECADE SYSTEMWIDE
AND LACK OF COMMUNICATION WITH THE COURT TO
ANSWER PETITIONER'S LETTER QUESTIONS IN VIOLATION
OF SJ.C RULE 3601, ATTY ETHICS SUB-RULES 1.3 1.4(a)(b)
WITH HIS OFFICE REFUSING COLLECT CALLS FROM CLIENTS, YOUR
PETITIONER REQUESTS TO BE HEARD AND MAKE A
RECORD AT 2/7/05 HEARING, AND FOR RECONSIDERATION
OF BAIL FOR REASONS SET OUT IN ATTACHED 5 PAGE
COMPLAINT AGAINST JUDGE O'TOOLE WITH ITS EXHIBITS

JANUARY 30, 2004 COPY
SERVED ON ASSISTANT ATTORNEY, SUSAN REEDON
cc: ATTY JOHN AMABILE Michael DuPont PRO PAC DICE
Box 100, S. Waltham, MA 02452

JUDICIAL COUNCIL OF THE FIRST CIRCUIT

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

Through: GARY H. WENTE, FIRST CIRCUIT Executive

Mail this form to the Clerk, United States Court of Appeals for the First Circuit, United States Courthouse, Suite 2500, 1 Courthouse Way, Boston, Massachusetts 02210. Mark the envelope JUDICIAL MISCONDUCT COMPLAINT or JUDICIAL DISABILITY COMPLAINT. Do not put the name of the judge or magistrate on the envelope.

Copies To: Chief Judge William Young & Hon. Judge and Ass. Atty
 See Rule 2(e) for the number of copies required. General Susan Reparol
 and All other A. Mass Judges and O'Toole's Friends later, *After my release*

1. Complainant's name: Michael Kevin DuPont
 Address: P.O. Box 100
S. W. Weymouth, MA. 02091

Daytime telephone: ()

2. Judge or magistrate complained about:

Name: George A. O'Toole, JR.

Court: DISTRICT OF MASSACHUSETTS AT BOSTON

Who should be disqualifed from my case immediately

3. Does this complaint concern the behavior of the judge or magistrate in a particular lawsuit or lawsuits?

Yes No

If yes, give the following information about each lawsuit (use the reverse side if there is more than one):

Court: Dufont v. Nolan, 04-11431-GAO *(AND ALL OTHER CASES)*
 Docket number: 04-11431-GAO *ON HIS DOCKET HE IS*

too lazy to make
timely rulings on

Are (were) you a party or lawyer in the lawsuit?

w/counsel Party Lawyer Neither MAYBE
 If a party, give the name, address and telephone number of your lawyer:
But CJA assigned ATTY John Amabile does not know the law

so-called ATTORNEY John Amabile told me he does
not like Judge O'Toole and criticized O'Toole
strongly on our first visit

Docket numbers of any appeals to the First Circuit: _____

4. Have you filed any lawsuits against the judge or magistrate?

Given complaint for failure to transcribe may follow
 Yes No *Not yet but*
 If yes, give the following information about each lawsuit (use the reverse side if there is more than one):

Court: _____

Docket number: _____

Present status of suit: _____

Name, address and telephone number of your lawyer: _____

Court to which any appeal has been taken:

28 USC § 351(c), MSS, SJC Rule 3209 violations
 Docket number of the appeal: _____

ATTN of attorney Ratings with offoode cases =

Present status of the appeal: _____

FOR Engaging in conduct prejudicial to the

5. On separate sheets of paper, not larger than the paper this form is printed on, describe the conduct or the evidence of disability that is the subject of this complaint. See Rule 2(b) and 2(d). Do not use more than 5 pages (5 sides).

6. You should either *Expediency Administration of Justice And*
Not knowing Bar Law And Habeas corpus Law
Sufficiently to make truly decisions

(1) check the first box below and sign this form in the presence of a notary public; or
 (2) check the second box and sign the form. You do not need a notary public if you check the second box.

I swear (affirm) that –

I declare under penalty of perjury that –

(1) I have read Rules 1 and 2 of the Rules of the Judicial Council of the First Circuit Governing Complaints of Judicial Misconduct or Disability; and
 (2) The statements made in this complaint are true and correct to the best of my knowledge.

please have my CJA sign this
 Signature: *Michael Kevin O'Donnell*

Assured that you signed this
 Date executed: *JANUARY 30, 2005*

Sworn and subscribed to before me

Date: _____

Notary Public: _____

My commission expires: _____

ATTORNEY JOHN AMARILE
380 PLEASANT STREET
BROCKTON MA, 02301
(508) 559-6966

BECAUSE I DO NOT HAVE FEDERAL ETHICS RULES FOR JUDGES IN MY CELL, I AM CITING ANALOGOUS RULES OF MASSACHUSETTS SUPREME JUDICIAL COURT AS FOLLOWS:

COMPLAINT #1: EX PARTE COMMUNICATIONS AND PURPOSEFUL DENIAL OF COMPETENT COUNSEL TO COVER-UP MISCONDUCT WHILE DENYING PETITIONER PAIR OPPORTUNITY TO BE HEARD.

PLEASE FIND ATTACHED HERETO A COPY OF JUDGE O'TOOLE'S PERSONALLY WRITING A COPY OF JUDGE O'TOOLE'S PERSONALLY WRITING A LAWYER EX PARTE WITHOUT SERVING A COPY ON OPPOSING ATTORNEY GENERAL'S OFFICE COUNSEL AND I AVEA THAT BEFORE 1/27/05 HEARING ATTORNEY AMABILE TOLD ME WHAT JUDGE O'TOOLE WAS GOING TO SAY ABOUT MY SUBSEQUENT FILINGS SO THERE MAY HAVE BEEN A SECOND EX PARTE COMMUNICATION.

SJJC RULE 3:09 JUDICIAL CANNON 3(C)(4) PROHIBITS EX PARTE COMMUNICATIONS WITH ONLY ONE COUNSEL FOR ONE PARTY WITHOUT INCLUDING OR NOTIFYING COUNSEL FOR OTHER PARTY, CHALLER V ROBBINS, 409 F2d 857, 858-859 (CADC 1989); JOHN Y LOVE, 76 F3d 508, 513-515 (CAFC 1996), BECAUSE IT "UNDERMINES CONFIDENCE IN THE IMPARTIALITY OF THE COURT", UNITED STATES V MINSKY, 963 F2d 890, 894 (CAFC 1992) AND EVEN BRIEF COMMUNICATIONS WITH ONE LAWYER SUPPORTS RECUSAL, UNITED STATES V RHYMES, 206 F3d 849, 856-859 (CAFC 1999), WHICH UNTRAINED JUDGE O'TOOLE SHOULD HAVE KNOWN, ID.

Case 1:04-cv-11431-GAO Document 41 Filed 02/06/05 Page 19 of 24
Following Judge O'Toole's 1/10/05 ex parte letter, the 1/29/05 hearing transcript tends to show UNUSUAL FAVORITISM FOR UNPRECEDENTED quick 2/7/05 HEARING next week ALLOWING Atty. AMABILE to have me present on 1/29/05 AND 2/7/05 for MINOR TECHNICAL STATUS CONFERENCE AND MOTION TO DISMISS ARGUMENTS THAT NO ATTABAS PETITION HAS EVER BEEN BROUGHT TO COURT FOR TO MY KNOWLEDGE BY ANY JUDGE EVER BEFORE, SO I FEAR JURISDICTIONAL BIAS IN FAVOR OF ATTY AMABILE BECAUSE JUDGE O'TOOLE MUST KNOW AMABILE CANNOT POSSIBLY KNOW FACTS IN MY 10,000 PAGE CASE RECORD AND DOES NOT KNOW UPDATED FEDERAL LAW, OR PERHAPS ANY CONTROLLING DECISIONAL LAW. THE STRIKING OF MY PLEADINGS INCLUDED JUDGE O'TOOLE STRIKING MY COMPLAINT AGAINST HIM TO CONCEAL HIS MISCONDUCT FEELING FROM FIRST CIRCUIT IN LATER APPEAL. SJJC RULE 3:69 JUDICIAL CANON 3(C)(1) ALSO STATES "A JUDGE SHOULD ACCORD TO EVERY PERSON WHO IS LEGALLY INTERESTED IN A PROCEEDING, OR HIS LAWYER, FULL RIGHT TO BE HEARD ACCORDING TO LAW" BUT JUDGE O'TOOLE DENIED ME OPPORTUNITY TO BE HEARD FOR PAST SIX MONTHS AND GAVE ME AN INCOMPETENT CJ.A. LAWYER WHO NEVER CONTACTED ME UNTIL JUDGE O'TOOLE WROTE AMABILE, AND DID NOT EVEN KNOW TO FILE A TIMELY APPEARANCE IN MY CASE FOR SEVERAL MONTHS, ON VISIT, IN ADDITION TO CONTACTING JUDGE O'TOOLE, ATTORNEY AMABILE Gossiped About LESBIAN REGINA QUINTANAN IN MY CASE BUT SAID NON JUDGE REGINA QUINTANAN IN MY CASE BUT SAID QUINTANAN'S GIRLFRIEND AAC BARBARA A. H. SMITH WAS DATING PROSECUTOR PHYLLIS BROKER, NOT QUINTANAN, WHEN AMABILE WORKED WITH HER IN THE ATTORNEY GENERAL'S OFFICE.

ATTORNEY AMABILE HAS NOT ACCEPTED ANY OF
 MY COLLECT CALLS TO HIS OFFICES IN PAST TWO MONTHS
 AND HAS NOT WRITTEN ME TO ANSWER ANY OF MY LETTERS
 AND BROKE HIS 1/12/05 PROMISE TO ME THAT HE WOULD
 FILE A BAIL MOTION AND OTHER STUFF WITHIN A FEW
 DAYS, BUT HE NEVER FILED ANYTHING AND 1/27/05
 TRANSCRIPT VERIFIES HIS LAZINESS WHEN HE REPLIED
 ONLY ON MY PRO SE PLEADINGS, ID. WHEN I ASKED
 AMABILE ABOUT 1/12/05 VS V BOOKER CASE, JUST LIKE
 WHEN I NAMED CASES BEFORE, HE HAD A BLANK LOOK
 ON HIS FACE, AND HE ASKED ME FOR COPIES OF BAIL
 CASES RIVERA V CONCEPCION, — FED — C1ST CIR 1992 AND
OBER V GUARINO — FED — C1ST CIR 2002 BECAUSE AMABILE
 DIDN'T KNOW ANY HABEAS CORPUS BAIL LEASES DURING 1/27/05 HEARING.

I HELPED SEVERAL OTHER PRISONERS PREPARE NEW
 TRIAL MOTIONS ATTACKING ATTORNEY AMABILE FOR NOT KNOWING
 STAFF DECISIONAL LAW AT THESE MURDER TRIALS, BUT IN
 SHOCKED THAT O'TOOLE WOULD ALLOW AMABILE TO PRACTICE
 IN HIS COURT ROOM KNOWING AMABILE DOES NOT READ
 OR KNOW BASIC FEDERAL DECISIONAL LAW. JUDGE O'TOOLE
 COVERS UP FOR INCOMPETENT CJA COUNSEL BY NOT ALLOWING
 CLIENT VICTIMS TO FILE MOTIONS OR MAKE A RECORD
 SPEAKING IN HIS COURT ROOM, SO I WOULD CHECK OUT
 INVESTIGATION ALL O'TOOLE CASES WITH THE MOST
 INCOMPETENT LAWYERS ON C.J.A. LIST SUCH AS ATTY ROGER
 COX WHO SELLS-OUT ALL OF HIS CLIENTS, OR LAWYERS LIKE
 AMABILE WHO DO NOT READ UPDATED FED DECISIONAL LAW
 LIKE BERNIE GROSSBERG AND 50% OF ALL CJA LIST COUNSEL,
 OR ROGER WITKIN WHO TELLS HIS CLIENTS HE'S NOT
 GOING TO FILE MOTIONS BECAUSE THE MOTIONS WILL BE
 DENIED BY FEDERAL JUDGES ANYWAY. THE CJA LIST
 SHOULD BE OPENED TO ALLOW NEW YOUNG COMPETENT AND
 DIFFERENT LAWYERS TO GET ON CJA LIST, AND 50% OF
 OLD OVER-THE-HILL INCOMPETENT LAWYERS WHO MERELY
 OVERBILL THE GOVERNMENT WHILE NEVER

Adequately preparing for trials should undergo competency evaluations and be removed from Federal COA Assignment List.

COMPLAINT #2: PATTERN IN DELAY IN RULINGS:

SJC Rule 3.09 JUDICIAL CANON 3 (A)(5)

STATES, "A Judge should dispose ~~PROMPTLY~~ of the business of the Court" so I request you to INVESTIGATE ALL OTHER O'TOOLE CASE DOCKET ENTRIES FOR PATTERN of his UNTRULY decisions, AS verified by my ATTACHED 04-11431-GAO DOCKET ENTRIES showing A dozen motions he HAS NOT RULED ON, WITH ATTACHED 3/4/05 sentence RECALCULATION FOR 2/26/05 RELEASE FROM PRISON THAT MAY MEET HABEAS GROUNDS. CONTRAST O'TOOLE RULING ON MOOTNESS REVIEWED IN JACKSON V COALTER, 337 F3d 24, 79 CFCIR 2003) WITH SUPREME COURT CASES CITED THEREIN EXPLAINING THAT THE "CASE OR CONTROVERSY REQUIREMENT SUBSISTS THROUGH ALL STAGES OF FEDERAL JUDICIAL PROCEEDINGS" AND THE PRACTICAL EFFECT OF O'TOOLE'S DELAY SEVERELY PREJUDICED ME ON APPENDI-BLAKEY-BOOKER RELEASE AND RELATED SENTENCING GROUNDS HE HAD NO EXCUSE FOR NOT DECIDING MERITS OF.

COMPLAINT #3: COVER-UP FOR GOVERNMENT MISCONDUCT AND O'TOOLE NOT BEING TRAINED IN FEDERAL HABEAS CORPUS OR BAIL LAW:

SJC Rule 3.09, JUDICIAL CANON 3 (B) (3) (b)

And O. MASS. LOCAL RULE 83.6 (5) (A) Judge O'Toole HAS ADVICE TO REFER THE ASSISTANT ATTORNEY GENERAL IN MY CASE TO THE BOARD OF BAR OVERSEERS FOR REASONS STATED IN PLEADINGS LISTED IN MY DOCKET ENTRIES, INCORPORATED HEREBY REFERENCE, but your future investigation may find he covered up for government lawyers AS O'Toole Always does!

SJC Rule 3009 JUDICIAL CANON 3 (A)(1)
 STATES "A JUDGE SHOULD BE FAITHFUL TO THE LAW AND
 MAINTAIN PROFESSIONAL COMPETENCE IN IT" and SO I
 SHOULD NOT HAVE TO TEACH O'TOOLE THAT D. MASS
 LOCAL RULE 83.5, 2(a) REQUIRED INCOMPETENT ATTORNEY
 AMABILE TO FILE AN APPEARANCE, hence O'TOOLE DID
 NOT HAVE HANFOL POWER TO STRIKE MY PRO SE
 MOTIONS PROPERLY FILED BEFORE COUNSEL'S APPEARANCE.

I SHOULD NOT HAVE TO TEACH JUDGE O'TOOLE THAT
 HE HAS POWER TO GRANT BAIL EVEN BEFORE EXHAUSTION
 OF STATE REMEDIES WHERE DELAY IS A FACTOR REVERA V CONCEPCION, 469 F3d 19, 18 (1ST CIR 1992) AND OFTEN "THE
 PETITIONER HAS REMAINED FREE ON BAIL PENDING THE OUTCOME
 OF THE HABEAS PROCEEDINGS" COOPER V GUARDINO
 295 F3d 19, 25 (1ST CIR 2002) WHILE BAIL IS
 PARTICULARLY APPROPRIATE FOR APPREHEND GROUNDS
 FOLLOWING BLAKLEY-BOOKER DECISIONS, UNITED STATES V CASTRO,
382 F3d 927, 929 (9TH CIR 2004) AND
CASTRO, 382 F3d 927, 929 (9TH CIR 2004) AND
 PETITIONER DUPONT ALSO HAS A DENIAL OF PLEA STAGE
 COUNSEL WITHOUT A WAIVER OF COUNSEL GROUND
IOWA V TOYAR, 124 S. CT 1379 (2004) THAT SHALL
 REQUIRE REPLEA, SENTENCING, AND BAIL RELEASE
 IS PARTICULARLY APPROPRIATE WHERE A SHOWING
 IS MADE THAT A FAVORABLE DECISION MAY RESULT
 IN RESENTENCING TO A TERM LESS THAN TIME
UNITED STATES V ANTICO, 123 F. Supp. 2d 285 (EPA 2002)
 ALREADY SERVED, UNITED STATES V ANTICO, 123 F. Supp. 2d 285 (EPA 2002)

JUDGE O'TOOLE SHOULD NOT BE ALLOWED TO STAND
 HEAR HABEAS CORPUS CASES UNTIL HE CERTIFIES UNDER
 OATH THAT HE READ COVER-TO-COVER WEBMAN FEDERAL
HABEAS CORPUS PRACTICE + PROCEDURE CATHED 1599 w/2007 supp,
 BUT I'LL GLADLY TRAIN O'TOOLE FOR YOU WHEN I LAW FULLY
 HAUL HIS COURT ROOM UPON MY RELEASE GIVING PRO BONO
 ASSISTANCE TO litigants IN ALL O'TOOLE'S OTHER CASES SINCE
 THE UNITED STATES FAILED TO TRAIN HIM IN LAW + COMMON COURTESY.

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

MICHAEL KEVIN DuPONT, *
Petitioner *

v.

DAVID NOLAN, Respondent

* No.04-11431-GAO

* (Submitted through CJA Counsel
to file/serve before 2/7/05)

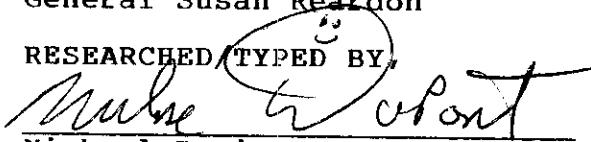
PETITIONER'S RENEWED MOTION FOR BAIL FROM PRESENT SENTENCE
TO 30 DAY CONSECUTIVE SENTENCE ON 2/7/05 PREVENTING MOOTNESS

Now comes the Petitioner, forwarding this through CJA n.1/ counsel(despite failure of counsel to file Local Rule 83.5.2(a)/appearance in past two months) and, pursuant to 28 USC §2243("shall summarily hear and determine the facts and dispose of the matter as law and justice require") and pre-exaustion bail precedent, RIVERA V. CONCEPCION, 355 F.Supp 662,665-666(D.PR 1972(Sentence substantially completed before substantial questions of law are decided, requiring bail); 469 F2d 17(1st Cir 1972) as well as pending habeas petition inherent power to grant bail, OUNBER V. GUARINO, 293 F3d 19,25(1st Cir 2002) ("The petitioner has remained free on bail pending the outcome of the habeas proceeding") where resentencing may occur if the post-conviction attack prevails, UNITED STATES V. ANTICO, 123 F.Supp2d 286) remanded 275 F3d 245,272(3rd Cir 2001) espescially when a Blakely-Booker issue is presented, UNITED STATES V. CASTRO, 382 F3d 927,929(9th Cir 2004(Remanding for bail remedy), moves this Court to reconsider personal recognizance bail release on 2/7/05 to prevent risk of mootness, JACKSON V. COALTER, 337 F3d 74,79,(1st Cir 2003)(Modifying Judge O'Toole's mootness ruling). By starting the Petitioner's 30 day Norfolk County Jail consecutive sentence and preserving a few weeks on present 20 year sentence pending result of First Circuit appeal, risk of losing federal jurisdiction can be avoided, and petitioners attached legal references and PSI show he is not a flight risk and shall find employment upon release.

February _____, 2005
copy served on Ass. Atty.
General Susan Reardon

RESPECTFULLY SUBMITTED THROUGH,

RESEARCHED/TYPED BY,



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S.Walpole,MA.02071

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380 Pleasant Street
Brockton, MA.02301

n.1/ Because no appearance was filed, striken 1/27/05 pleadings should be reinstated to this Court's docket at 2/7/05 hearing

